IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TYRIRK HARRIS	:	**CIVIL ACTION**
	:	
v.	:	
	:	
TAMMY FERGUSON, et al.	:	**NO. 17-cv-01718**

ORDER

This 4th day of December2018, upon careful and independent consideration of Petitioner Tyrirk Harris' Objections, the objections are **OVERRULED.** With one exception, the objections repeat arguments properly dealt with in the Report and Recommendation of U.S. Magistrate Judge Richard A. Lloret. Plaintiff's argument that Judge Lloret overlooked his argument that the Commonwealth failed to prove malice is rejected for two reasons. First, to the extent this argument is part of a claim of actual innocence, after review of the record, I find such an argument futile. Second, to the extent that Petitioner maintains he advanced such an argument in a supplemental filing, having reviewed the docket, specifically supplemental ECF filings 4 and 5, I find no such claim.
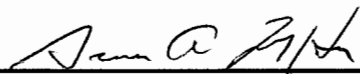
Accordingly, following review of the Petition, Responses, Objections, and record, it is **ORDERED** that:

1. The Report and Recommendation of Magistrate Judge Richard A. Lloret is APPROVED and ADOPTED;

2. Harris' Petition for Writ of Habeas Corpus is DENIED and DISMISSED with prejudice by separate Judgment, filed contemporaneously with this Order.

See Federal Rule of Civil Procedure 58(a); Rules Governing Section 2254 Cases in the United States District Courts, Rule 12;

3. No certificate of appealability shall issue under 28 U.S.C. § 2253(c)(1)(A) because "the applicant has [not] made a substantial showing of the denial of a constitutional right[,]" under 28 U.S.C. § 2253(c)(2), since he has not demonstrated that "reasonable jurists" would find my "assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see United States v. Cepero*, 224 F.3d 256, 262-63 (3d Cir. 2000), *abrogated on other grounds by Gonzalez v. Thaler*, 565 U.S. 134 (2012); and,

4. The Clerk of Court shall mark this file closed.

BY THE COURT:

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HON. GERALD A. MCHUGH
U.S. District Judge